IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No. 1070 of 1987.
Date of Decision: September 13, 2006.

Ravel Singh & Anr.

....**Appellants.**

through
None.

Versus

Darshan Lal & Ors.

...**Respondents**

through
None.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

This appeal has been preferred by the claimants against the award dated 23rd July, 1987 passed by the Motor Accident Claims Tribunal, Jalandhar whereby they have been awarded compensation of Rs.1,08,000/- along with interest @12% per annum on account of death of their son-Jasbir Singh in a motor vehicular accident which took place on 28th April, 1986. The appellants seek enhancement of the compensation.

Shorn of details, son of the appellants, namely, Jasbir Singh (since deceased) was employed as a Driver on Truck No. GTY-6009. He along with his brother Balbir Singh and Kamaljit Singh was on his way from Jalandhar towards Kartarpur side in the afore-stated truck. When the truck driven by Jasbir Singh reached near the factory of F.C.Sondhi,

G.T.Road, Suranusi, another truck bearing No.PBT-6755 which was being driven by respondent No.1 allegedly at a very high speed and in a zig-zag manner came from the opposite side and rammed against the truck driven by Jasbir Singh, who received multiple injuries and became unconscious. The other two occupants of the truck also sustained injuries. Jasbir Singh was rushed to Civil Hospital, Jalandhar, where he succumbed to his injuries.

Alleging that the deceased, who was a bachelor, was earning Rs.2000/- and used to pay Rs.1500/- per month for the maintenance of the appellants, this claim petition was filed.

Respondents No. 1 and 2 filed a joint written statement and contested the claim petition. They took the plea that no accident took place with truck bearing No. PBT-6755 driven by the first respondent and owned by the second respondent. The Insurance Company filed its separate written statement and it contested the petition on various grounds.

On the basis of the pleadings of the parties, the Tribunal framed the following issues:-

> "1. Whether the accident took place due to rash and negligent driving of truck No.PBT-6755 on 28.4.1986 by Darshan Lal, respondent No.1?OPP
> 2. To what amount the petitioners are entitled as compensation and from whom?OPP
> 3. Whether the respondent No.1 was having a valid licence?OPR-1
> 4. Relief".

Under Issue No.1, the Tribunal held that truck No. PBT 6755 which was being driven by respondent No.1 in a rash and negligent manner, caused the fatal accident. The Tribunal also took notice of the fact that the first respondent was facing trial in a case under Section 304-A IPC

registered against him on the basis of same occurrence. While deciding Issue No.2, the Tribunal held that the deceased (Jasbir Singh) was earning about Rs.1200/- per month and he was a bachelor. The Tribunal assessed the annual loss of dependency to be Rs.10,800/- and applying the multiplier of 10, it awarded a total compensation of Rs.1,08,000/- to the appellants.

The Tribunal further took notice of the fact that at the time of accident, appellant No.1 was 60 years whereas appellant No.2 was 50-52 years old. The Tribunal held that out of the total compensation amount, a sum of Rs.50,000/- be paid to appellant No.1 whereas the remaining amount to appellant No.2. It may be mentioned here that no appeal/cross-objections have been preferred by the respondents questioning the findings of the Tribunal under Issue No.1.

After going through the impugned award as well as records of the case and in view of the fact that the findings under Issue No.1 have remained unchallenged, the only issue which requires consideration by this Court is as to whether or not the Tribunal has correctly assessed the compensation payable to the appellants.

So far as the monthly income of the deceased is concerned, though, the appellants have asserted that he was earning Rs.2000/- per month, however, no records in relation thereto have been produced. The owner of the truck or his authorised agent have not entered the witness box nor the account books etc. have been produced to substantiate assertion regarding monthly income of the deceased. In such circumstances, the Tribunal was required to undertake the said exercise at its own. Consequently, the Tribunal's assessment that the deceased must have been earning Rs.1200/- per month, does not call for any interference. Similarly,

the Tribunal's view that the deceased was a bachelor and might have been contributing Rs.900/- for the maintenance of his parents appears to be just and reasonable, which too does not warrant any interference by this Court.

However, the Tribunal appears to have gone wrong in applying a multiplier of 10 only. It has gone un-rebutted that at the time of his death, the deceased was 27 years of age and his parents were 60 and 52 years old respectively. Though, the "Second Schedule" appended with the Motor Vehicles Act, 1988 has been incorporated by Act No.54 of 1994 prospectively w.e.f. 14.11.1994, however, it can be taken as a guideline even in respect of the cases where the accident had taken place prior thereto. That apart, based upon the average longevity of life, the expected remainder of life span of the parents of the deceased also ought to have been kept in view. Having regard to all the attending circumstances, I am of the considered view that the Tribunal ought to have applied the multiplier of atleast 15 instead of 10.

The view taken above is fortified by a judgment of the Supreme Court in the case of **Kaderkunju & Anr.** V **Maheswaran Pada Nair & Ors. (1999) 9 SCC,207** wherein the parents aged 47-45 years of the deceased who was 17 years of age, were awarded compensation by applying multiplier of 16. In the case of **General Manager, Kerala State Road Transport Corporation, Trivandrum v Susamma Thomas (Mrs.) & Ors. (1994) 2 SCC, 176**, their Lordships of the Supreme Court applied a multiplier of 12 as the deceased was 39 years of age.

Consequently and for the reasons afore-stated, this appeal is partly allowed. The award dated 23rd July, 1987 passed by the Motor Accident Claims Tribunal, Jalandhar is modified to the extent that the

appellants are held entitled to a compensation of Rs.1,62,000/- (10800x15=162000/-). It is further directed that the enhanced amount of compensation shall be equally shared by the appellants, who shall also be entitled to interest @6% per annum on the enhanced amount of compensation from the date of filing of the claim petition till its actual realization.

September 13, 2006. **(SURYA KANT)**
dinesh **JUDGE**